App. F. IX-4

1934-35 (Mis)

Misc. File No. 305-34

Previous References

Serial Nos. 1-2

Later References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 2

Part B for September 1935

SUBJECT.

WD 01965—GPB—15,000—7-7-34

Rao Bahadur B. K. Gowda's application

General and Revenue Secretariat. Misc. File No. 305 - of 1934 [App. F. III-2

Letter dated 22.5.1935
from Rao Bahadur B. K. Gowda, Chairman
Chickpet Bangalore City

1. With reference to Govt. Order dated 29th June 1932, requests permission to sell the Kodandaramaswamy Village of "Thavarekere" in Bangalore Taluk, endowed to the Sri Prasanna Krishnaswamy Temple in Thavarekere Village, Bangalore City, on condition that the sale proceeds, be deposited immediately after sale, to the credit of the Institution

for rent less than Rs 200/-

1) Certain records relating to the above case are perused below, and there appear to be some more collections on the subject for which requisitions have been sent. Besides, the Records want some more time to trace and perhaps the old file of 29th June 1882. These references are expected to be made available on Monday and the file will be forwarded with a note on the 28th inst. Time may therefore be allowed to submit the case properly, on the 28th inst.

25/5

2) May be taken on Monday (27th inst.) with reference.

25/5

NOTE—Contn. Sheet.

The Mungai collections noted below are findup.

(i) Mwz 399-1892 dated March 1914 containing the original draft G.O. dated 29th June 1882 — L

(ii) L.R. 493-1906-6 informing the Swami Superintendent in Mysore with reference Mr B.V. Krishna Iyengar's petition, that Govt see no objection to the village (Tharalu) in question being registered in the name of the temple" (Sri Gopalakrishna Swamy in Tholasi Thotam B. city) — K

(iii) Mungai 85-08-2 dated December 1909 accepting the endowment from Mr B.G. Kesava Iyengar, then Manager of the said Temple of Rs 6000 carrying interest at 4% per annum for the benefit of the Temple in question — E

(iv) Mungai 326-31-½ dated June 1932 holding that the Temple in question as a Non-Mungai Institution and that its Managers should keep proper accounts and make them available for inspection by Govt Officers as required by the G.O. dated December 1909 — M — E

4) From the facts recorded in the above files it is seen that the Sri Gopalakrishnaswami

Temple in Thulasi Thotam, Bangalore city is a Non-Mungai Institution, that the Village of "Thalalu" in Bangalore Taluk is only an endowment made to the Temple by a private individual and not by Govt, that the only manner in which Govt interested themselves in the case is by allowing the Village to be registered in the Inam Register as "Devadaya" and by asking the Managers of the Institution to keep regular accounts and to make them available for inspection by Govt Officers (Vide Section 22 of the Religious and Charitable Institutions Regulation 1927).

5) The Request of Mr. Garuda Char is two fold:

(i) permission of Govt to sell the Thalalu Village to any person for not less than Rs 20000/- and

(ii) subsequently the sale proceeds immediately after realisation, for the benefit of the Institution.

6 As regards point (i) Since the Institution is decidedly a Non-Mungai one and the Trust created in favour of it is a private Trust, provisions of the Indian Trusts Act 1882 become applicable to the case and Mr. Garuda Char may have to apply to a competent Civil Court to grant him the necessary permission

This is not in force in Mysore

NOTE—Contn. Sheet

Petn. Dahanukar Mr. B.K. Galuda chairman Applicant

Newal File No. 305 of 1936 | General and Revenue Secretariat

for the proposed conversion of the Trust property. The fact that Govt previously permitted him to sell the property in their order dated 29th June 1882 does not seem to alter the position of Govt in the matter and enable them to exercise a power which is vested in a civil court (or court Bombay) Government do not therefore seem to be competent to grant Mr. Galuda the permission now asked for by him, in the present circumstances of the case.

As regards point (ii): No permission of Govt is required if the Trust money should be invested in any of the securities mentioned in clause (a) and (b) of S. 23 of the above Regulation 1927. It is only in the case falling under clause (c) of the said section that approval of Govt is necessary.

Law Section may perhaps be consulted in the matter. Details about the institution regarding its committee of management its funds etc. are not known.

Rd 1/6

PS.

Rao Bahadur M. D. K. Gandachari's application.

12.36

General and Revenue Secretariat | Legislative File No. 305 of 1934 | [App F III-2

9) The proposal now made by Mr. Gandachar is no doubt a good one as the management of Khayamgutta Villages in these days is not an easy task and the income also is not assured. But as pointed out in the office note above, the Institution being a non-Muzrai one it is for consideration how far Govt can interfere and whether provision of Govt would be valid. Law Deptt may be consulted.

1/6/35

Ch: Secy)

10) That Mr. Gandachar now wants is permission to sell the villages, & this has become necessary because the villages has been declared as Devadaya. On a former occasion permission to sell the villages was given but subject to the condition that a separate trust deed should be executed assigning the sale amount for the temple of the temple exclusively. The said condition was not complied

(Flag C)

NOTE—Contn Sheet

1266

Mug. File No. 305 of 1934 | General and Revenue Secretariat

On the ground of the expense involved. It is difficult to recover monies in Mian village & it will be all to the advantage of the municipality if the village could be connected with [illegible]. We may insist on the investment of the money in fort securities.

2nd Mr.) Re 4.6.35
1st Mr.) 11) I agree with the Chief Secy. But it seems better to make the position of Govt clear so far as its powers are concerned to make fine valid per mensem. The Law Section may be consulted on this point as to how to make an order valid & under what provn it can be done.

4/6
8/6 Re
11/6
13/6

12) Law 10/6/35

Law Secretary)

Law Secy 13/6.

OFFICE OF THE SECOND MEMBER OF COUNCIL
4 JUNE 1935
No. 7-69

8885

5 The Mysore Religious and Charitable institutions Regn VII of 1927 does not empower Govt to direct the sale of an inam land belonging to a public religious instn. Under sec 22 the persons in charge of religious instns are required to maintain and submit regular accounts. Sec 23 directs the investment of trust money in proper securities. Beyond this there is no provision under which the Govt can permit the sale of the property belonging to such institution.

14 But under sec 92 cl (f) of the Civil Procedure Code a decree may be obtained from a Civil Court of original jurisdiction authorising the sale or any part of the trust property to be sold, on the ground that the direction of the Court is deemed necessary for the administration of the trust under question.

292 Law

18 17/6.

Section 9 of Regulation VII of 1927 by invalidating all unauthorised alienations or transfers of inam lands granted to the muzarai Institutions by Government, impliedly recognises power in Govt to authorise such alienations by general or special orders - But since the temple in this case is not a muzarai Institution and the land in question is not an inam granted to such institution by Govt, Section 9 does not seem to be applicable -

NOTE—Contn. Sheet.

The only other section in Regulation VII of 1927 that enables Govt to interfere with a non-muzarai religious or charitable institution is sec 18 under which Govt can frame a scheme and pass such other ancillary or necessary orders as the case may require for the proper management of the institution and its property - Under this Govt can direct the sale of lands belonging to the institution and the investment of sale proceeds in proper securities - But the condition precedent to the exercise of jurisdiction under this section is the ~~existing~~ existence of gross mismanagement or misappropriation or breach of trust - in respect of property belonging to the charity - The section is not applicable when the manager applies for directions without committing such mismanagement or breach of trust -

Whenever directions are deemed necessary for the administration of any trust which is not a muzarai institution the proper tribunal to give such directions is a Civil Court which can pass a decree ~~authorising~~ under sec 92 (3) of the Civil Procedure Code authorising

Babyreddy B.K. Gokula applicants

General and Revenue Secretariat — File No. 305 of 1934. — [App. F. III—2

Serial No.

the whole or any part of the trust property to be sold, mortgaged or exchanged. I am therefore of opinion that our Ganadachar has to apply to the District Court, Bangalore for the necessary permission to sell the village in question and that Govt have no powers under the law to give such permission in this case.

asst Secy, mm2 with Compts } mm 17.6.35

18 Refce:- II Members Minute at para 11 Supra. 17/6/35

Ch: Secy)

Asst Secy. Law Code phrase spoke to me about this

1°Ca 186

Asst Secy, Law with Compts) 20) 19/6/35

29 JUN 1935 607

21) Resubmitted as personally directed

Chief Secy) mm 21/6/35

22) I think the above is the correct Orders. I append the opinion of the Govt Advocate which also be obtained

II Member) 23) Yes 4pm 5.7.35

SPO 8/7 4pm 8/7 mm 8/7

SECOND MEMBER OF COUNCIL. 6 JULY 1935 No.

NOTE—Contn. Sheet.

WD 01955—GPB—22/500—12 6 34

File No. 306 of 1935

Forwarded with compliments
the Government Advocate for
favour of opinion -
By order

9/7/35
for General
GS -

GENL & R
9 JUL 15
MUZRAI BRANCH

Returned with compliments.

The question whether the temple is a Muzrai Institution or not, is not free from doubt. But as it has already been held that this is not a Muzrai Institution, it is unnecessary to discuss that - question now.

Even in the case of non-muzrai institutions Section 19 of the Regulation empowers the Muzrai Officer to hold a summary inquiry 'where property belonging to a religious or charitable institution' is wrongfully alienated or transferred and 'direct that possession of such property should be restored to the institution or that the Government assume possession thereof on behalf of the institution.'

It is perhaps, to prevent Government taking action under Section 19 at a later stage, that Mr. B.K.Garudachar wants the sanction of Government for the proposed alienations. If the Government are satisfied that the sale of the inam village is -

desirable

desirable in the interests of the institution, it would be competent for Government to say that they do not object to the alienation, provided the amount is deposited with Government. This would perhaps enable the temple to secure good offers. I do not, therefore, see any legal objection to Government saying they do not object to the sale proposed by Mr. B.K.Garudachar if they are satisfied that it is beneficial to the temple.

A

S. Ramaswami
Government Advocate.

CSN/2.8.35

Approved Mr. Garudachar will be given a reply as in A and a copy sent to Mr. for info.

Yes & also provided the amt. is deposited with Govt. Draft may be put up accdly

submitted in the draft is approved

Govt. Law Office

As Law is speak

1266

Mg File No. 305 of 1934

General and Revenue Secretariat

34 I have put up a separate draft. There is no need for the present to insist on Mr. Gamsachar executing any trust deed etc in this respect.

Gen Secy) 26/8

36 The draft may I think be approved.

H Home Member

Dewan 26-8-35

37 27/8

27-8-35

27/8

387 29/8

Mg Bor) 9-10

(35)

It is better not to ~~Commit~~ commit ourselves to the position that there is a non-Muraras Inam. A recent tracing of our Regs. work seems to indicate that all temples for which there is an inam reported as a Devadayam are Muraras ones, even though the inam may be granted by private persons

25 AUG. 1935 1422

OFFICE OF THE SECOND MEMBER OF COUNCIL. 27 AUG. 1935 No. 1422

27 AUG. 1935 No. 1422

Rem in 30/8/35 GS

31 AUG. 1935 GENL & REV. SECTT.

Serial No.	

NOTE.—Contn. Sheet.

WD 03591—GPB—30,000—13-7 35

File No. of 193 .

Genera
Secr

SENL 1266.

From Mus 305-34-1

Rao Bahadur B. K. Garudachar, M.L.C.,
Chickpet, Bangalore City.

To

The Chief Secretary to the
Government of His Highness the Maharaja of
Mysore, Bangalore.

Sir,

The undersigned is the manager of Sri Prasanna Krishnaswamy Temple, Thulasi Thotam, Bangalore City.

Kayamgutta Village, "Tharalu", formerly of Kankanhalli Taluk, now of Bangalore Taluk, is endowed for expenses to the above Temple.

The said Village is being managed by me for more than 35 years. In the interest of the temple, I feel the management of land endowed for charitable purposes has become difficult and the same be converted into cash and deposited with the Government, the interest on which may be utilised for the purpose.

Some years back, my grand-father who was managing the village as Trustee, applied to Government for permission to sell the same for Rs.10,000/- (Rupees Ten thousand only). For some reason or other, that was not accomplished. For ready reference I herein quote the number and date of Government Order, viz., No.2325-6/34 dated 29th June 1882. If the said Government Order cannot be traced, I will produce the original. Considering the present market value of land, etc., I seek permission of the Government to sell the abovesaid village

to

to any for not less than Rs.20,000/- (Rupees Twenty thousand, on condition that the above amount be deposited immediately after sale.

I pray Government will consider my request and pass orders early.

I beg to remain,

Sir,

Yours obediently,

Chickpet,
Bangalore City,
22nd May 1935.

G R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

Continuation sheet draft form.)

324

Rev 305-34-2

dt 4-9-35

Rao Bahadur

B. V. Gundachar Esq

Chickpet, Bangalore city

Sir,

With reference to your application dated 22nd may requesting for permission of Government to sell the Kayamgutta village of "Kharaba" which is registered as a "Devadaya" in favour of Sri Prasanna Krishnaswami Temple at Thulasi Thotam Bangalore city, I am directed to state that since the proposed sale is said to be beneficial to the institution, Government do not desire to object to the sale [illegible]

AG
RS

WD 0436—GPB—10,000—17-10-33

CMS 2/9

and the sale proceeds are immediately deposited with Government, the interest thereon alone being utilised thereafter for the purposes of the temple in accordance with law.

Yours etc

Secretary

Copy to H.C. 325 of 4-9-35

" " D.C. Bangalore 326 of 4-9-35

" - Commissioner for Hindu Religious Institutions 326 of 4-9-35

Appendix F G.–1]

SUBJECT.....

.....

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Section.

File No.

Serial No.

No.

Diary No. of letter replied to .....

To

Rao Bahadur Mr. B.K. Garudachar
Chickpet Bangalore city

General and Revenue Secretariat.

( )

the *193* .

Dear Sir,

With reference to your representation dated the 22nd May 1931 - I am directed to state that ~~Govt do not object~~ to the sale of the Khoryangutta Harala Village in Bangalore Taluk, endowed to the Sri Prasanna Krishnaswamy temple in Thulasi Thotam, Bangalore City, for not less than Rs 20,00 as proposed by ~~you, provided~~ your application, ~~the~~ sale proceeds being deposited

Date of issue.....

Signed by.....

There is no objection

List of enclosures.....

Copied by.....

Examined by.....

with Govt immediately after the sale
formal trust deed should be executed assigning the
proceeds of the sale
for the benefit
temple

Note.

It is a point for orders whether it is necessary to request B.H. Garudachar to execute a formal deed assigning the proceeds of the sale of the village for the benefit of the temple and have it registered. I wanted to impose as a condition when Mr Garudachar applied for permission to sell the main village on a previous occasion. (vide G.O. No. 2325-6 dated 24th June 1882.) There is a point for consideration whether such a trust deed is not necessary to prevent Mr. B.H. Garudachar or his heirs from demanding the right to use the amount for any other purpose. In the absence of such a deed they may be held to prevent Govt. from using it for the benefit of the temple. Govt. may be at liberty to impose such a condition under Sec. 14 of the Rel. and Endowments Act 35 of 1863.

10/8/35 Send letters
Copies to the M.C with compts
for Law Information
B.O.

10/8 Send letters
BL